



Restoring the Public Trust:

A Report to the People of St. Louis Evaluating the March 6, 2001 Primary

Presented by:
Secretary of State Matt Blunt



OFFICE OF THE SECRETARY OF STATE
STATE OF MISSOURI
JEFFERSON CITY
65101

MATT BLUNT
SECRETARY OF STATE

ELECTIONS DIVISION
(573) 751-2301

March 23, 2001

Dear St. Louis City Board of Election Commissioners
and Voters of the City of St. Louis:

In November 2000, the election process in St. Louis, Missouri became the focus of local, state and national attention. The procedures and policies used to conduct elections in St. Louis City were called into question. Public trust in the very foundation of our political system, our elections, was undermined not only in St. Louis City, but in every corner of our state.

As Missouri's Secretary of State and the state's chief elections officer, I believed that it was important to quickly address public concern, so I formed a bipartisan commission to review Missouri's election statutes and procedures. The Commission consisted of twenty-two current and former local election officials, eleven Democrats and eleven Republicans.

On Friday January 12, 2001, the Commission to Review Election Statutes conducted a field hearing in St. Louis – one of seventeen cities that participated in hearings conducted by the Commission. At the St. Louis field hearing, Commission members not only heard public testimony regarding problem areas within our election system as a whole, they also received testimony outlining specific concerns with the conduct of elections in St. Louis City. Oral testimony was presented to the Commission from federal and state elected officials, candidates, political parties, voters and other organizations concerned with election related issues.

Since the January field hearing in St. Louis, questions and concerns about the integrity of the election process in St. Louis City have continued to arise. Repeatedly, print and broadcast media have drawn attention to potential problems in the St. Louis City election process. The Missouri Secretary of State's office has received hundreds of constituent contacts requesting that this office take an active roll in helping to address the problems faced in St. Louis City.

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In response to public concern, I decided to send Secretary of State staff to monitor the March 6, 2001 Municipal Primary Election in St. Louis City. Though lacking the statutory authority to oversee every detail of the process, I firmly believed that the Secretary of State's Office was uniquely qualified to provide St. Louis voters with an independent and objective review of the procedures and conduct of its Board of Elections. In addition, I believed that my office could be a valuable resource for the St. Louis City Election Board.

I want to thank the St. Louis City Board of Election Commissioners and its staff for all of its hard work. The March 6th Municipal Primary Election showed marked improvement over the near crisis situation that developed in St. Louis City last November. While many factors may have contributed to the improvement in way this election was managed, the Board and its staff deserve credit.

Every Missouri voter is entitled to fair and accurate elections in which each and every vote counts. As your Secretary of State and the chief elections officer of Missouri, I deliver to you today a report of our findings in the March 6, 2001 St. Louis City Municipal Primary Election.

Sincerely,

A handwritten signature in black ink that reads "Matt Blunt". The signature is fluid and cursive, with "Matt" on the top line and "Blunt" on the bottom line.

Matt Blunt
Secretary of State

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AN ENVIRONMENT FOR CONCERN

By all measures, the March 6, 2001 St. Louis City primary was expected to be a hotly contested election. On the Democratic ballot, incumbent Mayor Clarence Harmon was seeking reelection, and was facing competition from former Mayor, Freeman Bosley Jr., St. Louis City Aldermanic President, Francis Slay and School Board member, Bill Haas. On the Republican ballot, two candidates, Michael Chance and Francis Wildhaber, were also running.

As the March 6, election approached, St. Louis City election officials scrambled to restore the public trust eroded by the serious allegations of voting irregularities raised during the November 2000 elections. Last minute court intervention last November only added to the public confusion and heightened public concern.

In February, St. Louis voters learned that approximately 3,000 voter registration cards had been delivered to the St. Louis City Board of Elections just prior to the registration cutoff deadline for the March primary. Allegations of fraud were leveled, and mayoral campaigns worked to distance themselves from the cards in question.

By February 12th, a review conducted by the St. Louis City Board of Elections had identified approximately 500 questionable registrations and pointed to the possibility of coordinated filings of potentially fraudulent forms. The accuracy of the city's voter registration rolls, a key safeguard against fraud, were again being called into question.

Public confidence in the election system was again eroding, and concern regarding the integrity of the March 6, 2001 Municipal Primary Election was growing. As St. Louis City prepared for the upcoming election, candidates, voters and members of the press were scrutinizing city election procedures, and voters began to call for state and federal participation.

With the cooperation of the St. Louis City Board of Elections, the Missouri Secretary of State's Office sent Will Leathem, Director of Elections, to attended a public meeting at the Board offices at 300 N. Tucker. On Friday, February 16, the St. Louis Board of Election Commissioners and representatives from the Secretary of State's Office and the St. Louis City Circuit Attorney's Office heard testimony from voters and from organizations including the newly formed Citizens Concerned with African-American Voter Disenfranchisement. Serious concerns regarding the integrity of the March 6th primary were again voiced publicly.

Exacerbating the situation, illness and personal problems among members of the Board and its key personnel threatened to drain it of crucial leadership, and to precipitate a human resource crisis.

As events continued to develop during the last days leading up to the St. Louis City Municipal Primary Election, concerned voters continued to contact the Secretary of State's Office requesting that it act to protect the integrity of the election.

A PLAN FOR ACTION

During the week of February 19th, discussions with the St. Louis City Board of Elections and the St. Louis City Circuit Attorney's Office, helped Secretary of State Elections staff identify five areas in need of proactive action in order to insure the integrity of the March 6th primary and to help restore public confidence:

- 1) Provide support and assistance where necessary for St. Louis City Board staff in carrying out their duties,
- 2) Provide an immediate enforcement mechanism in the case of clear and significant evidence of voting irregularities,
- 3) Work with the judiciary to clarify appropriate actions and reduce public confusion as to the courts' role,
- 4) Produce a record of internal procedures and activities used by Board personnel, and
- 5) Send a clear message to the public that the election process would be closely monitored and that the integrity of the process protected.

Working with the St. Louis City Board of Elections, a plan of action was developed. The cornerstone of the plan was to utilize both Secretary of State and St. Louis City Circuit Attorney personnel to provide independent observers to monitor the election and assist the St. Louis City Board of Elections where feasible.

The primary mechanism for monitoring the March 6th primary was to be the Board's established practice, as authorized in section 115.083 RSMo, of providing bipartisan teams of election judges to travel from polling place to polling place within each of city's twenty-eight wards. Each bipartisan team would be authorized to help facilitate communication between the Board offices and election judges on site at polling places, to help insure that adequate supplies were available at each polling place and to help provide on-site assistance and dispute resolution on a case by case basis.

In accordance with long-standing practice and as authorized in section 115.409 RSMo, the St. Louis City Board of Elections would utilize St. Louis City police officers as escorts for each of the bipartisan team of judges. Officers would be on hand and readily available in each ward to insure order, if needed, at polling places. In addition, the uniformed officers would escort each bipartisan team of judges as they transported ballot boxes from the polls to the central tabulation facility, thus sending a strong message to the public that the integrity of the ballot boxes was secure.

It was agreed that the Missouri Secretary of State's Office and the St. Louis City Circuit Attorney's Office would provide enough personnel to serve as independent

monitors in each of the city's twenty-eight wards, and at the Board's central offices. While Circuit Attorney staff were to receive training from the City Election Board, monitors provided by the Secretary of State would receive their training through the Secretary of State's Division of Elections.

REPORT OF ACTIVITIES

I. Training and Preparation

On February 23rd and 27th, the Secretary of State's Elections Division visited with the St. Louis City Board of Elections staff, cross-checking statutory requirements with existing Board procedures.

An observation form (*Appendix A*) was prepared for Secretary of State monitors. The form outlined seven integral observations to be made by Secretary of State monitors upon each entry of a polling place.

On March 5th, Secretary of State monitors met in Jefferson City for training by the Secretary of State's Election Division. An additional review of duties and priorities was conducted at the Board offices that afternoon by Secretary of State and St. Louis City Election Board staff.

In addition, recognizing the public confusion caused by court actions during the November 2000 elections, it was decided that the Secretary of State's office would serve as a resource to members of the regional judiciary. The Secretary of State's Office prepared a letter (*Appendix B*) touching upon three key issues:

- 1) Who is legally entitled to vote by court order on the day of election,
- 2) Can judges conduct appeals in polling places to facilitate voters, and
- 3) Is there legal authority to keep polls open past the time set by state statute for closing?

On Friday March 2nd, the letter was provided by the Secretary of State's Office to the St. Louis Circuit Attorney's office for dissemination to appropriate members of the area judiciary.

II. Field Monitoring

On Tuesday March 6th, at 5:15 AM, fourteen monitors representing the Missouri Secretary of State's Office, and including Secretary of State Matt Blunt, met with twenty-two monitors representing the St. Louis City Circuit Attorney's office at the Board of Elections offices at 300 North Tucker.

To protect the objectivity of the monitoring process, monitors had been assigned to city wards the preceding day through a random drawing of names by a bipartisan team of St. Louis City election judges.

On March 6th, one independent monitor was assigned to each of twenty-eight teams of bipartisan election judges. Teams were then placed with an uniformed police escort before departing from the Board offices between 5:30 AM and 6:15 AM.

Independent Monitor Assignments

Ward 1	Circuit Attorney	Ward 15	Circuit Attorney
Ward 2	Secretary of State	Ward 16	Circuit Attorney
Ward 3	Circuit Attorney	Ward 17	Circuit Attorney
Ward 4	Circuit Attorney	Ward 18	Circuit Attorney
Ward 5	Secretary of State	Ward 19	Secretary of State
Ward 6	Secretary of State	Ward 20	Secretary of State
Ward 7	Circuit Attorney	Ward 21	Secretary of State
Ward 8	Circuit Attorney	Ward 22	Circuit Attorney
Ward 9	Secretary of State	Ward 23	Circuit Attorney
Ward 10	Secretary of State	Ward 24	Secretary of State
Ward 11	Circuit Attorney	Ward 25	Secretary of State
Ward 12	Circuit Attorney	Ward 26	Circuit Attorney
Ward 13	Circuit Attorney	Ward 27	Circuit Attorney
Ward 14	Circuit Attorney	Ward 28	Circuit Attorney

*Board of Election Commissioners Offices, 300 North Tucker
Secretary of State
Circuit Attorney*

From the time of their departure from Board offices, until the all ballots and materials were returned to the tabulation facility following the close of polls that evening, each team made repeated visits to each polling place within their assigned ward.

In most instances, a regular pattern of moving from polling place to polling place developed. Repeat visits were paid to each poll within a ward by each team assigned to that ward. As situations arose that required on-site problem resolution, ward teams, after consultation with the Board offices, were dispatched to the polling place in question.

The ten monitors representing the Secretary of State made 225 visits to 71 polling places. Multiple precincts were often located in a single polling place. Secretary of State monitors, kept detailed written reports of significant observations (*Appendix A*). If an opportunity presented itself where questioning of on-site election judges did not interfere with voting or the conduct of the election, Secretary of State monitors pursued a limited list of queries.

As the ten monitors from the Secretary of State's office observed the election at the polls in their designated wards, a minimum of two Secretary of State monitors maintained a continuous presence between 5:15 AM and 11:30 PM at the Board offices.

Secretary Blunt personally monitored procedures at the Board offices from 5:15 AM until 7:30 PM. During the afternoon, Secretary Blunt joined a team of bipartisan election judges for a first-hand review of polling place procedures in Ward 10.

It should also be noted that the United States' Department of Justice, under the direction of Attorney General John Ashcroft, sent monitors into St. Louis City for the March 6th primary. Other than incidental contact, the efforts of the Department of Justice remained wholly separate from the coordinated activities of the Missouri Secretary of State's Office, the St. Louis City Circuit Attorney's Office, and the St. Louis City Board of Elections. Department of Justice activities were specifically focused on the role of the "inactive list" in the March 6th primary.

AREAS FOR IMPROVEMENT

The process of designing and implementing procedures by which tens of thousands of eligible voters are accurately registered, voted and their votes tabulated is a challenging task. No system, no matter how well thought out, can prevent or anticipate every problem that will arise. Yet, based upon observations made by Secretary of State monitors in the March 6, 2001 Municipal Primary Election in St. Louis City, improvements can be made.

I. Reducing Confusion and Improving Public Perception

If it can be demonstrated to St. Louis City voters that the City Election Board has established and implemented sound policies and procedures, that its staff is well trained and managed, and that elections within its jurisdiction are being conducted in an orderly and lawful fashion, public trust in the city elections will begin to improve.

It should be noted that the March 2001 Municipal Primary Election evidenced a vast improvement over last November's elections. Yet, if voters continue to perceive confusion and a lack of order, public opinion will continue to reflect doubts about the credibility of the election process.

At the Polls

Repeatedly, Secretary of State monitors noted that a sense of confusion existed at many polling places. Factors contributing to this perception included:

- 1) The late arrival of supplemental lists of voters that had voted absentee,
- 2) Insufficient numbers of election judges at polling places, in violation of section 115.081 RSMo, creating a situation where judges representing one major party outnumbered judges from the other,
- 3) Inadequately trained election judges who were unfamiliar with election law and board policies and procedures,
- 4) Election judges unfamiliar with the operation of the cell phones used to contact the City Election Board,
- 5) The presence within polling places of potentially unauthorized persons claiming party authorization, and

- 6) Campaigning in and around polling places by candidates and their representatives.

Solutions

- A. Improve the training of election judges as to Missouri law, Board procedures and equipment operation,
- B. Expand Board efforts to recruit adequate numbers of election judges,
- C. Provide clear policy directions in writing to each judge for common problems,
- D. Insure that supplemental lists containing names of all voters voting absentee prior to the election are at each polling place prior to the start of voting in accordance with 115.297 and 115.415 RSMo, and
- E. Establish a policy by which political parties must provide to the Board of Elections in writing a list of its challengers and watchers. This list should be provided to the Board by the political parties prior to the election so that election judges at the polling places are prepared to swear in challengers and watchers in accordance with section 115.109 RSMo.

At Board Offices

Secretary of State monitors noted that while many of the problems experienced at the ward polling places were not a factor at the central Board offices at 300 North Tucker, that other problems did exist:

- 1) **Dispatching Teams of Roving Election Judges:** The process by which the bipartisan teams of roving deputies were initially dispatched into the wards was chaotic. While accommodating twenty-eight independent monitors may have added minor organizational considerations, the lack of simple techniques delayed teams from getting into the field in a timely manner.

Solution

A simple procedure such as the posting of ward numbers on the wall and having team members report to the appropriate number would have vastly simplified and expedited the process. Such a procedure would have put forward to Board employees, the public and the media a greater sense of organization and control of the election by the Board.

- 2) **Maintain Control of Election Board Office Space:** From 5:00 AM until the close of polls at 7:00 PM, the board demonstrated a noticeable lack of control over its own office space, with individuals not directly involved in the conduct of the election roamed freely throughout the Board facilities. This situation did not appear to exist once the polls were closed at 7:00 PM.

Solution

Designate specific locations within the Board facilities for varying activities – voting in one location, problem resolution in another location, accommodating

press needs in another location. Clearly designate each location and limit physical access to each area. Designate authorized personnel with color-coded badges. Unauthorized individuals should be kept out of all areas of the Board office except those areas designated for voting.

- 3) **Staff Duties:** Many members of the Board staff did not appear to have been assigned clear duties. Often staff pursued multiple tasks and drifted from one area to another. As problems arose, it was often necessary to make voters wait while the appropriate authority was tracked down.

Solution

Designate clear duties for each staff member, and prioritize Board staff accordingly.

II. Clearly Define Policies and Procedures

Secretary of State monitors noted that both at polling places and at the Board offices, situations often arose requiring supervisory direction. In many instances, knowledge of board policy by senior staff appeared to be limited, and access to written copies of current board policy was not readily available.

Examples:

- 1) Repeated calls to the Board from bipartisan teams of roving deputies in the 21st Ward, raised three questions:
 - what party representatives were authorized to be in a polling place,
 - who had authorized and appointed party representatives, and
 - how were authorized party representatives to be identified?

A discussion between the acting Democratic and Republican Directors did not produce a clear answer. After a brief search, a single page – a copy of a 1997 board policy – was produced. Yet, the applicability of a 1997 policy to this election was highly questionable.

- 2) A disabled voter, requesting permission to vote at the Board office, had to wait as the acting Republican and Democratic directors tried to determine Board policy. The voter grew tired of waiting and departed without voting.

Solutions

- A. Directors, working with Board Commissioners, should develop and adopt clear and concise policies for all Board activities. Board policies should clearly reflect Missouri statutory requirements. Special attention should be paid to developing procedural policies

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-
- B. Board policies, once formally adopted or amended, should be collected in a policy manual.
- C. Multiple copies of the current board policy manual should be readily available on election day, especially in the area of the Board office designated to process polling place queries.

III. Inactive List

During the days preceding the March 6th Municipal Primary Election, the policies and procedures governing the usage of the Board's list of inactive voters again came under fire. Questions similar to those raised during the November 2000 elections were again brought before the public. On March 5, 2001 – the day preceding the election – a court case was filed requesting that the court end the use of the Board's inactive list and that the names of the voters on that list be added to the list of active registered voters.

The Board, in its defense, noted that if the court ordered the names listed as inactive to be added to the list of active registered voters, the number of registered voters in St. Louis City would exceed the voting age population. The Board also noted that this could create a serious threat to the integrity of the election process.

In a ruling late that evening, Judge Robert Dierker upheld the use of the list. In his ruling, Judge Dierker attempted to clarify for voters how they could vote even if their names had been wrongfully placed on the inactive list.

The National Voting Rights Act (NVRA), commonly referred to as the "Motor-Voter," establishes the formation of inactive voter lists. The November 2000 confusion regarding the inactive lists raised serious concerns with citizen groups that a similar situation would develop during the March 6, 2001 Municipal Primary Election.

Much of the confusion last November was caused by Board policies for resolving voter allegations of wrongful removal from the active voter registration list. Board policy dictated that names of inactive voters not be printed in the poll books. If a person appeared at the polling place to vote and their name was not in the precinct register, election judges were instructed to contact the central Board office to verify if the person should be allowed to vote. In November, communication between polls and the Board's central office was grossly inadequate. This compounded the demands placed on election judges' time already taxed by a heavy voter turnout. The time needed to resolve voter registration problems in the face of poor communications took time away from processing eligible voters and contributed to the formation of lines at polling places and voter discontent.

Solution

It should be noted that while the enhanced means of communication developed by the Board virtually eliminated this problem on March 6th, the number of inactive voters will only continue to grow unless proper procedures to clean registration rolls are followed in accordance with NVRA and Missouri Statutes.

If and when procedures outlined by NVRA and section 115.193 RSMo have been followed, then names of voters no longer residing within the city, and thus ineligible to vote in city elections, can be properly and permanently removed from voter registration lists.

The Board should ensure that all future notice sent to voters to confirm their address contains the statement provided in section 115.193.3 RSMo. If this language is contained, the board may clean up its voter registration rolls by permanently removing unqualified names from its voter registration list in accordance with the law.

IV. Ballot Integrity

In order to preserve the integrity of each ballot and to prevent fraud, Missouri law, in section 115.432 RSMo, establishes procedures for inspecting and sealing ballot boxes prior to the commencement of voting. The Board's established procedures provide for additional steps to insure the integrity of the ballot box by requiring numbered seals to be used.

Secretary of State monitors noted that ballot boxes were often unlocked and unsealed when they arrived at the polling place for the first time. Since the bipartisan teams of roving election judges carried the ballot box seals with them, and since these teams arrived for the first time after voting had already begun, most polling places had ballots placed in unsecured ballot boxes.

In addition, Secretary of State monitors noted that the ballot box used to receive ballots cast by voters at the Board offices, while locked with a padlock, at no time was sealed with a numbered seal.

Solution

- A. Require that ballot box seals be used and recorded for every ballot box, including the box at the Board offices.
- B. Require – at a minimum – that ballot boxes are to be locked in accordance with section 115.432 RSMo prior to votes being cast. The additional security of requiring that all ballot boxes be seal with numbered seals prior to votes being cast would provide St. Louis voters with an even greater sense of security.

V. Communication

Many of the problems experienced in St. Louis City during the November 2000 elections – voter frustration, long lines, etc. – could have been corrected by improving communication between election judges at polling places and the Board offices.

The area of most improvement between last November's election and the March 6th Municipal Primary Election was in the realm of improved communication between the Board office and individual polling places.

The St. Louis City Board of Elections took decisive action to acquire cell phones for each polling place and for each bipartisan team of roving judges. Phone lines were added at the Board offices, and it appeared that sufficient staff was on hand to help answer calls for this election. The Board set up two areas to process incoming calls – one to process clarifications in voter registration and the inactive list, and a second to resolve problems in the field on a case by case basis. The Board's communications were supported by redundancies provided by police radios and cell phones carried by Secretary of State and Circuit Attorney monitors. It should be noted that on several occasions, Secretary of State monitors needed to use their phones to get through to the Board offices.

It is hard to assess the real impact of the Board's actions in reducing lines of voters and easing voter tensions. While turnout during last November's Presidential election was much higher than on March 6th, better communications clearly worked to improve the timely resolution of voter problems.

The Board should be commended for improving communication. It should continue its efforts to keep the lines of communication open between polling places and the Board offices, and should anticipate a greater need for more staff and phone lines during high turnout elections.

VI. Attention to Detail

In addition to problem areas enumerated above, the St. Louis City Board of Elections must remain diligent in the day-to-day demands of conducting elections. It must continue to reevaluate its policies and procedures in order to provide the voters of St. Louis City an election process that functions smoothly and accurately and that earns the public trust.

While not necessarily indicative of systematic failures, Secretary of State monitors noted repeated instances of faulty voting equipment, inadequate supplies and the lack of voting instructions clearly and prominently displayed in polling places. In

addition, it was also observed that several polling locations were problematic for disabled voters.

No election authority can eliminate every problem. No matter how many times staff check the bulbs in voting booths, on election day, a few lights will be out. Yet, it must not be forgotten that a multitude of minor difficulties can become a major problem, especially in elections where voter turnout is high.

CONCLUSION

The Missouri Secretary of State's office concludes that the process of providing independent monitors was an overwhelming success. The added scrutiny may very well have dissuaded any systematic attempt to cast fraudulent ballots. It certainly allowed for a thorough, independent evaluation of the election process in St. Louis City.

Election day reports of voter dissatisfaction and disenfranchisement were at a fraction of those recorded during the November 2000 elections. Post election coverage by the media has not revealed any major systemic breakdowns, and there have been no high profile complaints from candidates participating in the election. Since the election, the number of constituent complaints received by the Secretary of State's office regarding St. Louis City has dramatically dropped off.

While several factors can be credited with helping restore order and with relieving voter concerns – the most significant were lower voter turnout and the improved communications between the St. Louis City Board of Elections and its staff at the polling places – the presence of independent monitors clearly played a significant role.

During the days leading up to the election, Board staff were in regular contact with the Missouri Secretary of State's Office and the Office the St. Louis City Circuit Attorney. The continuing dialogue between these offices can itself be taken as evidence that the Board was carefully preparing for the increased level of scrutiny.

It must also be noted that while improvements in the process were evident on March 6th, there are still areas in need of significant improvement.

SECRETARY OF STATE
St. Louis City Observation Form
Tuesday March 6, 2001

Name _____ Ward _____
Polling Place _____ Time _____

OBSERVATIONS TO BE MADE

- | | | | |
|-------|---|------------|----------|
| I. | A) Are voters being asked to show ID?
B) Are voters being asked to sign the poll register | yes | no |
| II. | A) Do election judges appear to suggest which ballot to select?
B) How many election judges are present in the polling place? | yes | no |
| III. | A) Are ballot boxes sealed?
B) Are voters placing their own ballot in the box?
C) Record ballot box seal #s _____ | yes
yes | no
no |
| IV. | A) How many voters are standing in line?
B) How many voting booths are available?
C) Does voting equipment appear to be in good working order?
D) Are there adequate supplies (blank ballots, etc) | yes
yes | no
no |
| V. | Is the polling place facility handicapped accessible? | yes | no |
| VI. | Are election instruction posters being displayed | yes | no |
| VII. | Does anything seem unusual about the polling place? | yes | no |
| VIII. | Is there any campaigning in the polling place?
Describe _____ | yes | no |

QUESTIONS TO BE ASKED (if not too intrusive to voting process)

- | | | |
|------|---|---------------|
| I. | Are you a Democrat/Republican? (ask each judge) # of Rs _____ | # of Ds _____ |
| II. | How many individuals have been allowed to vote by affidavit? | _____ |
| III. | A) How many voters came to vote that were not on the registration list?
B) How was the problem resolved? | _____ |
| IV. | # of spoiled ballots? | _____ |
| V. | A) How many individuals have been not allowed to vote?
B) Why? | _____ |
| VI. | Any difficulties contacting the board for info/resolve problems? | yes no |
| VII. | Time absentee/supplemental voter list arrived? _____ # of names on list? _____ | |



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MATT BLUNT
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ELECTIONS DIVISION
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March 2, 2001

Honorable Margaret M. Neill
Division 1
22nd Judicial Circuit
10 North Tucker Blvd.
St. Louis, Missouri 63101

Dear Ms. Neill:

As you are aware, considerable attention is currently focused on issues pertaining to election procedures. Some of the issues recently raised touch upon areas that affect the judiciary. The purpose of this letter is to offer our assistance where appropriate, and to serve as a resource for your office.

During the November 2000 election in St. Louis, the following issues were highlighted:

- (1) Who is legally entitled to a court order to vote on the day of election;
- (2) Can judges conduct appeals in polling places to facilitate voters; and
- (3) Is there legal authority to keep polls open past the time set by statute for closing.

Below are some statutory cites and a recent legal ruling that may be of help as you and your staff prepare for the Tuesday March 6, 2001 election.

I. Voters Entitled To A Court Order Allowing Them To Vote On Election Day

Missouri statutes provide direction on who is allowed to vote and who is forbidden from voting. Section 115.133 provides:

1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the State of Missouri and seventeen years and six months of age or older shall be entitled to register and vote in any election which is held on or after his eighteenth birthday.
2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote:
 - (1) While confined under a sentence of imprisonment;

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- (1) While on probation or parole after conviction of a felony, until finally discharged from such probation or parole; or
- (2) After conviction of a felony or misdemeanor connection with the right of suffrage.

Furthermore, section 115.139 provides:

Except as provided in subsection 2 of section 115.137 and section 115.277, no person shall be permitted to vote in any election unless the person is duly registered in accordance with the chapter.

Section 115.223 establishes an appeal procedure for a lawfully registered voter whose name was wrongfully removed from the list of registered voters:

Whenever a voter's name has been removed from the registration records by an election authority, the voter may appeal the removal to the circuit court. Unless prohibited by court rule, the petition may be filed in an associate circuit court division.

...it shall be sufficient for the voter to present to the court an application verified by affidavit setting forth that his name has been removed from the registration records, the date of such removal and any other information showing his qualification to vote.

II. Voter Appeals on Election Day

It has been noted that in St. Louis City, circuit court judges were available at the election board offices to facilitate the appeals of those who sought court orders to allow them to vote.

Missouri Civil Rule 55.29 allows circuit courts to conduct hearings outside of the courtroom.

However, we would encourage your office to continue to work closely with the local election authority to establish uniform procedures that will insure the equal protection of every voter.

III. Court Authority Regarding Keeping Polls Open Past the Time Set by Statute for Closing

Section 115.407, RSMo 2000, sets the time that the polls are open in Missouri. It provides in full:

The election judges shall open the polls at six o'clock in the morning and keep them open until seven o'clock in the evening. At seven o'clock in the evening, all voters at the polls, including any in line to vote shall be permitted to vote.

Robert D. Odom v. Board of Election Commissioners states:

In Robert D. Odom v. Board of Election Commissioners, on November 7, 2000, the City of St. Louis Circuit Court issued an Order that the polls in the City be held open until 10:00 p.m. at the polling places and that the St. Louis Board of Elections Commission be held open until 11:59 p.m. An emergency appeal was taken to the Missouri Court of Appeals for the Eastern District by both the Board of Election Commissioners and by Bush-Cheney 2000, Inc., as intervenor. On November 7, 2000, the Court of Appeals issued a Preemptory Writ of Prohibition quashing the Order. The Court of Appeals subsequently issued a full opinion on the December 6, 2000. State ex rel. Bush-Cheney 2000, Inc. v. Baker, 34 S.W. 3d 410, 2000 WL 1855146 (Mo. App. 2000).

In its opinion, the Court of Appeals noted that a Circuit Court "lacks jurisdiction to extend the hours of voting established by state statute." 2000 WL 1855146 at *1. The Court of Appeals continued by stating that an extension of the hours of voting "would only permit voting by persons not entitled" to vote. Id. The Court concluded:

Courts should not hesitate to vigorously enforce the election laws so that every properly registered voter has the opportunity to vote. But equal diligence is required to ensure that only those entitled to vote are allowed to cast a ballot. Otherwise, the rights of those lawfully entitled to vote are inevitably diluted.

We hope that this information may prove helpful to you and your office as you prepare for the March 6, 2001 election. If we can be of assistance, please do not hesitate to contact us at (573) 751-2301. On behalf of all Missourians, we thank you for your commitment to preserving the integrity of our election process.

Sincerely,
William E. Leathem
Director of Elections
Betsy Byers
Director of Elections

Proposals Currently Before The Missouri Legislature

With a Potential to Improve St. Louis City Elections

- 1) Allow for ***Early Voting*** which would shorten lines on election day and provide additional time for election officials and voters to address problems experienced by those placed on the inactive list
- 2) Establish new procedures to enhance the integrity of the voter registration rolls
- 3) Empower the Missouri Secretary of State's Office and the Office of Attorney General to investigate allegations of election fraud and prosecute those who purposefully break Missouri's election laws
- 4) Require that board of election commissioners be selected by the Governor from lists provided by the major parties, thus strengthening bipartisan oversight of elections
- 5) Eliminate ***Butterfly Ballots*** except in emergency situations
- 6) Make funds available to increase compensation for election judges
- 7) Expand the pool of election judges by including 3rd parties and independents
- 8) Assist with improved training for election judges
- 9) Establish grants to assist local election authorities in modernizing and improving outdated voting equipment
- 10) Provide improved voter instruction signage
- 11) Provide multi-lingual sample ballots
- 12) Extend the prohibition of electioneering to 50 feet from polling place